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REMARKS

Claims 1-3 are pending.

The Office Action rejects, under 35 U.S.C. §103, claims 1-3 over Buzak (U.S. Patent No. 4,726,663) and Kondo (U.S. Patent No. 5,598,285). This rejection is respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (MPEP 2142). The prior art must suggest the desirability of the claimed invention (MPEP 2143.01).

Applicants assert the Office Action has not provided a *prima facie* case of obviousness because there is no suggestion or motivation to modify the references to achieve the claimed invention.

Buzak uses a three-pair or six chiral layer stack to form a device that can selectively tune colors within three primary colors in a discrete fashion. For example, chiral liquid crystal cells 22 and 24 are tuned to the respective colors green and red. Chiral liquid crystal cells function in a manner similar to that described for a cholesteric layer (col. 3, lines 27-52). The Office Action admits Buzak does not disclose a means for applying an electric field parallel to the back plate.

Kondo teaches a liquid crystal display device. However, applicants assert the teachings of Kondo cannot be combined with the teachings of Buzak because Kondo deals with a completely different liquid crystal from Buzak. In particular, Kondo has nothing to do with cholesteric liquid crystal or the chiral liquid crystal taught in Buzak. Kondo does not disclose any use with chiral liquid crystal. In fact, the teachings of Kondo cannot be combined with the teachings of Buzak because Kondo expressly discloses the use of nematic liquid crystal, as opposed to chiral liquid crystal. For example, regardless of whether Kondo teaches an in-plane field, Kondo teaches using a field to switch a nematic liquid crystal. For example, Kondo expressly discloses there are strict characteristics and requirements for the use of a twisted

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nematic type, which limits materials that can be used with the teachings of Kondo. While the teachings of Kondo do allow for the range of material selection to be increased, the teachings still only apply to nematic liquid crystal, not the chiral liquid crystal taught in Buzak.

The Office Action alleges the teachings of Kondo provide an advantage such as a wide viewing angle. However, Kondo does not teach the advantage is applicable to the teachings of Buzak.

Applicants recognize that one reading the claimed invention may begin to recognize numerous benefits that suddenly become apparent only after reading the claimed invention. The more the exact words of the claims are read, the more one can realize the benefits only became apparent after reading Applicants' teachings. Upon reaching this realization, it is easy to notice that there is absolutely no evidence of motivation in the prior art and such evidence has not been provided by the Office Action. Furthermore, the Office Action has not alleged motivation is based on the nature of the problem to be solved or based on the knowledge of persons of ordinary skill in the art. Yet, such motivation is required for a proper rejection under 35 USC § 103 (*see MPEP § 2143.01*). Thus, once one notices there is no evidence of motivation in the prior art, one can understand that the Office Action has applied impermissible hindsight in attempting to combine the references.

Thus, the Office Action has not provided a *prima facie* case of obviousness because there is no suggestion or motivation to modify the references to achieve the claimed invention.

Therefore, Applicants respectfully submit that independent claim 1 defines patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103.

#### CONCLUSION

Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-3 are earnestly solicited.

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Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



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Dated: June 21, 2006

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